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DOCUMENT

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DOC #:

DATE FILED: 5/19/2022

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
:
-v.- :
:
MICHAEL PEARSE, :
:
Defendant. :
:
----- X

STIPULATION AND ORDER

S3 15 Cr. 616 (AT)

WHEREAS, on or about June 5, 2017, MICHAEL PEARSE (the “Defendant”), among others, was charged in an eight-count Superseding Indictment, S3 15 Cr. 616 (AT) (the “Indictment”), with, *inter alia*, conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count One);

WHEREAS, the Indictment included, *inter alia*, a forfeiture allegation as to Count One of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of any and all property, real and personal, which constitutes or is derived from proceeds traceable to the commission of the offense charged in Count One of the Indictment;

WHEREAS, on or about July 3, 2018, and on or about January 7, 2019, a Post-Indictment Restraining Order was entered restraining, *inter alia*, the following asset of the Defendant:

- a. All right, title, and interest in the limited partnership interest in Blackwall Capital Holdings, LP (“Blackwall”) in the name of Michael J. Pearse, equal to 1.5% based on a capital contribution of \$150,000, as well as any future distributions or dividends, including any past unpaid distributions or dividends;

(the “Subject Property”);

WHEREAS, on or about June 8, 2021, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government;

WHEREAS, on or about August 5, 2021, this Court entered a Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment (D.E. 836) against the Defendant, imposing a Money Judgment in the amount of \$10,162,937.96 in United States currency (the “Money Judgment”), representing the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, and ordering the forfeiture to the United States of all right, title and interest of the Defendant in, *inter alia*, the Subject Property:

WHEREAS, on or about October 25, 2021, the Court entered a Final Order of Forfeiture (D.E. 853), forfeiting to the United States all right, title and interest in the Subject Property;

WHEREAS, Kevin Chen (“Chen”) is the is the CEO of PHX Financial Inc. and owner of the general partnership interest in Blackwall (which is now known as “Phoenix Financial Consolidated Holdings, LP”); and

WHEREAS, the Government has agreed to accept the sum of \$150,000 in United States currency from Chen as payment for the Subject Property.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between Damian Williams, United States Attorney for the Southern District of New York, Assistant United States Attorneys Olga I. Zverovich and Jilan J. Kamal, of counsel, and Kevin Chen, and his counsel Irwin Weltz, Esq., that:

1. Upon entry of this Stipulation and Order, Chen agrees to make a payment to the Government in the amount of \$150,000 in United States currency (the “Payment”) representing the value of the Government’s interest in the Subject Property.

2. The Payment shall be made by wire transfer in accordance with the instructions to be provided by the Government, or by bank or certified check payable to the United States Department of Treasury and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

3. Upon receipt, the Government shall apply the Payment towards the satisfaction of the Money Judgment.

4. Upon receipt of Payment, the Government agrees to complete any documents necessary to effectuate the transfer the Government's interest in the Subject Property to Chen.

5. This Stipulation and Order constitutes the entire agreement between the Government and Chen (the "Parties") on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by any party or agents of any party that is not contained in this Stipulation and Order shall be enforceable.

6. Each party agrees to bear their own costs and attorney's fees.

7. The Parties hereby waive all rights to challenge or contest the validity of this Stipulation and Order.

8. The Court shall have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

9. The signature page of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: 

5/15/22

OLGA I. ZVEROVICH
JILAN J. KAMAL
Assistant United States Attorneys
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2514/2192

DATE

KEVIN CHEN

By: 

5/15/22

KEVIN CHEN

DATE

By: 

5/16/22

IRWIN WELTZ, ESQ.
Attorney for Kevin Chen
170 Old Country Road, Suite 310
Mineola, NY 11501

DATE

SO ORDERED:



HONORABLE ANALISA TORRES
UNITED STATES DISTRICT JUDGE

May 19, 2022

DATE